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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/814,504	03/31/2004	Jewel Tracy	20031124-001	6464

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Roger L. Belfay
829 Tuscarora Avenue
Saint Paul, MN 55102

EXAMINER

LANDRUM, EDWARD F

ART UNIT	PAPER NUMBER
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3724

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05/05/2009

PAPER

Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

Office Action Summary	Application No. 10/814,504	Applicant(s) TRACY, JEWEL	
	Examiner Edward F. Landrum	Art Unit 3724	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 3/9/2009.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1,2 and 6-11 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1,2 and 6-11 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☒ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 31 March 2004 is/are: a) ☐ accepted or b) ☒ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. _____.
 3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|---|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413) |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | Paper No(s)/Mail Date. _____ |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08) | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152) |
| Paper No(s)/Mail Date _____ | 6) <input type="checkbox"/> Other: _____ |

DETAILED ACTION

Drawings

1. The drawings are objected to because it is not understood where the actual location of the guide slots are. Figure 1 shows the guide slots as being on the lower and upper sides of the device, however in Figure 2, which is not a cross-section, a guide slot is not shown and sanitary material 2 is not shown to be guided by anything. Figure 3 which is a depiction of the same embodiment shown in Figures 1 and 2 discloses that the guide slots are not located in the locations disclosed in Figure 1 or page 1 of the detailed description. Figure 3 shows the guide slot to instead be part formed as an opening between the frame and the dispensing device parallel to the dispensing device. Figures 4-6 have the same problems as disclosed for Figures 1-3. Corrected drawing sheets in compliance with 37 CFR 1.121(d) are required in reply to the Office action to avoid abandonment of the application. Any amended replacement drawing sheet should include all of the figures appearing on the immediate prior version of the sheet, even if only one figure is being amended. The figure or figure number of an amended drawing should not be labeled as "amended." If a drawing figure is to be canceled, the appropriate figure must be removed from the replacement sheet, and where necessary, the remaining figures must be renumbered and appropriate changes made to the brief description of the several views of the drawings for consistency. Additional replacement sheets may be necessary to show the renumbering of the remaining figures. Each drawing sheet submitted after the filing date of an application must be labeled in the top margin as either "Replacement Sheet" or "New Sheet"

pursuant to 37 CFR 1.121(d). If the changes are not accepted by the examiner, the applicant will be notified and informed of any required corrective action in the next Office action. The objection to the drawings will not be held in abeyance.

Specification

2. The disclosure is objected to because of the following informalities: Based on the drawings it is not understood how the dispensing device is attached to a side perpendicular to the guide slots. Figures 2 and 5 disclose there are no actual guide slots located perpendicular to the dispensing device and Figures 3 and 6 instead disclose that the guide slots are actually located parallel to the dispensing device.

Appropriate correction is required.

Claim Rejections - 35 USC § 112

3. The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

4. Claims 1, 2, and 6-11 are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.

Claim 1 recites the limitation "said sanitary surface" in lines 7 and 8. There is insufficient antecedent basis for this limitation in the claim.

Claim 9 recites the limitation "said sanitary surface" in lines 7 and 8. There is insufficient antecedent basis for this limitation in the claim.

Claim Rejections - 35 USC § 103

5. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

6. Claims 1, 2, and 6, 7, and 9-11 are rejected under 35 U.S.C. 103(a) as being unpatentable over Oats '513 (U.S Patent No. 4,926,513) in view of Heppner (U.S Patent No. 4,212,217) in further view of Van Wagner (U.S Patent No. 1,891,629), hereinafter Wagner.

Regarding claims 1 and 9, Oats '513 teaches (see Figures 1-2) a frame (100), having four sides, for placement on a floor to define a sanitary area within the planar areas defined by the frame, and help guide the sanitary covering material through the frame. The sanitary area is bounded by the four sides. Steiner further teaches the dispensing device (110 and 110') attached outside of the sanitary area (see Figure 4). A guide slot (slot formed between the dispensing device 110, 110', and the bed frame; see Figure 2). Any material, especially woven material (Col. 2, lines 62-63) has a coefficient of friction above zero, therefore it can be said that any material, including the woven material Oats '513 to be slip resistant. Regarding claims 2 and 10, Oats '513 teaches (see Figures 1-2) a collection device above frame (100).

Regarding claim 6, Oats '513 teaches (see Figure 2) the use of a hand-operated roller (136) for the collection device.

Regarding claim 7, Oats '513 teaches (Col. 2, lines 29-38; also see Figure 3) the use of an electrically operated roller (130') in the collection device.

Oats teaches all of the elements of the current invention as stated above except the dispensing device being disposed above the sanitary area.

Heppner teaches (see Figure 1) a roll of material (12) disposed above an area of use.

Wagner teaches (see Figures 1 and 2) that it is old and well known in the sanitary web art to provide web in rolls (23) outside of a sanitary area which comprises the patient bed (10).

It would have been obvious to have modified Oats to incorporate the teachings of Heppner and Wagner to place the dispenser for the sanitary covering material above and outside of the sanitary area. Doing so would allow for the easy replacement of sanitary material when the dispensing device ran out of sanitary material. Furthermore, the overall design of the dispensing device would decrease in complexity therefore making it easier to manufacture and fix.

7. Claim 8 is rejected under 35 U.S.C. 103(a) as being unpatentable over the modified device of Oats '513 in view of Kapiloff '003 (U.S Publication No. 2003/0116003).

The modified device of Oats '513 teaches all of the elements of the current invention except the use of a sensor for the automatic removal of the sanitary covering material whenever the user vacates the sanitary area.

Kapiloff '003 teaches the use of a force sensor to activate a drive motor thereby dispensing flexible sanitary material (Paragraph 33).

It would have obvious to have modified the modified device of Oats '513 to incorporate the teachings of Kapiloff '003 to create a device for the automatic dispensing of sanitary material. A force or weight sensor would detect the presence of a person on the sanitary covering material and could easily activate a motor to dispense new sanitary covering material once the force left thereby making the replacement of sanitary covering material automatic thereby requiring less user interaction.

Response to Arguments

8. Applicant's arguments filed 3/9/2009 have been fully considered but they are not persuasive.

Examiner has disclosed the slot in Oats. Furthermore, the limitation "said sanitary surface bounded by said first, second, third, and fourth sides" does not patentably differentiate claim 1 from Oats. The sanitary area can be defined as just about anything provided there is covering material and it is within the four sides of the frame. The term "bounded" does not further limit the claim.

Conclusion

9. The prior art made of record and not relied upon is considered pertinent to applicant's disclosure.

Oats '600 (U.S Patent No. 3,641,600), and Steiner (U.S Patent No. 1,877,610) teach devices for dispensing sanitary material. Schuler (U.S Patent No. 6,105,481), and Welch et al (U.S Patent No. 5,894,978) teach cutting devices of flexible material. Cooper (U.S Patent No. 3,315,676) teaches perforated sanitary material. Schreck (U.S Patent No. 6,038,708) teaches a stacking area for sanitary covering material. LaRose

(U.S Patent No 6,363,555) teaches motorized movable web material. Bailey (U.S Publication No. 2004/0084609), Abbas et al (U.S Patent No. 5,265,296), Formon et al (U.S Patent No. 6,742,689), Jahrling (U.S Patent No. 6,161,814), and Kapiloff '620 (U.S Patent No. 6,892,620) teach sensor devices for use in sanitary applications. Blanchard (U.S Patent No. 2,088,686), and Mueller (U.S Patent No. 2,751,003) teach material dispensers located above the material working area.

10. Applicant's amendment necessitated the new ground(s) of rejection presented in this Office action. Accordingly, **THIS ACTION IS MADE FINAL**. See MPEP § 706.07(a). Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the date of this final action.

11. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Edward F. Landrum whose telephone number is 571-272-5567. The examiner can normally be reached on Monday-Friday 8-4:30.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Boyer Ashley can be reached on 571-272-4502. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

/E. F. L./
Examiner, Art Unit 3724
4/30/2009

/Boyer D. Ashley/
Supervisory Patent Examiner, Art Unit 3724